



Senate

General Assembly

File No. 527

January Session, 2011

Substitute Senate Bill No. 1203

Senate, April 14, 2011

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WATER PROTECTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-27 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The secretary, after consultation with all appropriate state,
4 regional and local agencies and other appropriate persons, shall, prior
5 to March 1, 2012, complete a revision of the existing plan and enlarge it
6 to include, but not be limited to, policies relating to transportation,
7 energy and air. Any revision made after May 15, 1991, shall identify
8 the major transportation proposals, including proposals for mass
9 transit, contained in the master transportation plan prepared pursuant
10 to section 13b-15. Any revision made after July 1, 1995, shall take into
11 consideration the conservation and development of greenways that
12 have been designated by municipalities and shall recommend that
13 state agencies coordinate their efforts to support the development of a
14 state-wide greenways system. The Commissioner of Environmental
15 Protection shall identify state-owned land for inclusion in the plan as

16 potential components of a state greenways system.

17 (b) Any revision made after August 20, 2003, shall take into account
18 (1) economic and community development needs and patterns of
19 commerce, and (2) linkages of affordable housing objectives and land
20 use objectives with transportation systems.

21 (c) Any revision made after March 1, 2006, shall (1) take into
22 consideration risks associated with natural hazards, including, but not
23 limited to, flooding, high winds and wildfires; (2) identify the potential
24 impacts of natural hazards on infrastructure and property; and (3)
25 make recommendations for the siting of future infrastructure and
26 property development to minimize the use of areas prone to natural
27 hazards, including, but not limited to, flooding, high winds and
28 wildfires.

29 (d) Any revision made after July 1, 2005, shall describe the progress
30 towards achievement of the goals and objectives established in the
31 previously adopted state plan of conservation and development and
32 shall identify (1) areas where it is prudent and feasible (A) to have
33 compact, transit accessible, pedestrian-oriented mixed-use
34 development patterns and land reuse, and (B) to promote such
35 development patterns and land reuse, (2) priority funding areas
36 designated under section 16a-35c, and (3) corridor management areas
37 on either side of a limited access highway or a rail line. In designating
38 corridor management areas, the secretary shall make
39 recommendations that (A) promote land use and transportation
40 options to reduce the growth of traffic congestion; (B) connect
41 infrastructure and other development decisions; (C) promote
42 development that minimizes the cost of new infrastructure facilities
43 and maximizes the use of existing infrastructure facilities; and (D)
44 increase intermunicipal and regional cooperation.

45 (e) Any revision made after October 1, 2008, shall (1) for each policy
46 recommended (A) assign a priority; (B) estimate funding for
47 implementation and identify potential funding sources; (C) identify
48 each entity responsible for implementation; and (D) establish a

49 schedule for implementation; and (2) for each growth management
50 principle, determine three benchmarks to measure progress in
51 implementation of the principles, one of which shall be a financial
52 benchmark.

53 (f) Any revision made after October 1, 2009, shall take into
54 consideration the protection and preservation of Connecticut Heritage
55 Areas.

56 (g) Any revision made after December 1, 2011, shall take into
57 consideration (1) the state water supply and resource policies
58 established in sections 22a-380 and 25-33c, and (2) the list prepared by
59 the Commissioner of Public Health pursuant to section 2 of this act.

60 ~~[(g)]~~ (h) Thereafter on or before March first in each revision year the
61 secretary shall complete a revision of the plan of conservation and
62 development.

63 Sec. 2. (NEW) (*Effective from passage*) Not later than October 31, 2011,
64 the Commissioner of Public Health, in consultation with the Water
65 Planning Council established pursuant to section 25-33o of the general
66 statutes, shall prepare a list designating sources or potential sources of
67 water that require protection so that the highest quality sources of
68 water are available to provide water for human consumption. In
69 preparing such list, the commissioner shall take into consideration the
70 plans produced pursuant to sections 22a-352, 25-32d and 25-33h of the
71 general statutes and such other plans or information that the
72 commissioner deems relevant. The commissioner shall update the list
73 annually or more frequently as the commissioner deems necessary.
74 Nothing in this section shall be construed to limit the commissioner's
75 authority to approve a source of water supply that is not on the list.

76 Sec. 3. Section 21a-138 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2011*):

78 The commissioner, after hearing, of the time and place of which
79 reasonable notice shall have been given, may suspend or revoke any

80 such license for any of the following causes: The use of any polluted
81 water; [for bottled water, the failure to use a source approved by the
82 Department of Public Health;] failure to conduct such business in a
83 sanitary place and under sanitary conditions; the use of any ingredient
84 impure or injurious to health; a conviction for a violation of the federal
85 law in relation to intoxicating liquors or any state liquor control act;
86 failure to comply with the provisions of this part, part III of this
87 chapter and chapters 416, 417 and 430, relating to the manufacture of
88 pure foods, so far as the same may apply to the provisions of this part,
89 or failure to comply with any order of the commissioner under the
90 provisions of this part. No person, during any period when his license
91 is suspended or revoked, shall manufacture any beverage or sell or
92 offer for sale any beverage previously manufactured by him. No
93 person shall sell any beverage from open containers.

94 Sec. 4. Section 21a-150 of the general statutes is repealed and the
95 following is substituted in lieu thereof (*Effective October 1, 2011*):

96 For the purposes of this section and sections 21a-150a to 21a-150j,
97 inclusive, as amended by this act:

98 [(1) "Approved source" means the source of any bottled water,
99 including, but not limited to, a spring, artesian well, drilled well or
100 public water supply, which has been inspected and approved by the
101 Department of Public Health;]

102 [(2)] (1) "Artesian well water" means bottled natural water obtained
103 from a well tapping an aquifer in which the level of the water is above
104 the bottom of the confining bed of the aquifer and in which the
105 hydraulic pressure of the water in the aquifer is greater than the
106 atmospheric pressure;

107 [(3)] (2) "Bottled water", or any term of similar import, means water
108 obtained from [an approved] a supply source which is packaged for
109 sale or distribution. "Bottled water" shall not include any soda or
110 seltzer which is packaged for sale or distribution;

111 [(4)] (3) "Bottler" means any person, firm or corporation engaging in
112 the business of bottling water for sale or distribution;

113 [(5)] (4) "Distilled water" means purified water which has been
114 produced by a process of distillation;

115 [(6)] (5) "Drinking water" means bottled water which has been
116 distilled, fluoridated or purified or which has been disinfected by a
117 process of ozonation and filtration or any substantially similar
118 disinfection process;

119 [(7)] (6) "Fluoridated water" means bottled water which contains
120 fluoride ions in an amount not less than eight-tenths of one milligram
121 per liter and not more than one and two-tenths milligrams per liter or
122 such alternative concentration limit as the Commissioner of Consumer
123 Protection, with the advice and assistance of the Commissioner of
124 Public Health, may determine by regulations adopted in accordance
125 with the provisions of chapter 54 and which otherwise complies with
126 the provisions of Subdivision 2 of Subsection (d) of 21 [Code of Federal
127 Regulations] CFR 103.35;

128 [(8)] (7) "Mineral water" means natural water which contains not
129 less than five hundred parts per million total dissolved solids;

130 [(9)] (8) "Natural water" means bottled spring water, artesian well
131 water or well water, which has been obtained from any [approved]
132 supply source other than a public water supply and which has not
133 been modified by blending with water from any other source or by the
134 addition or deletion of any mineral other than any addition or deletion
135 which may occur as a result of ozonation, filtration or any other
136 substantially similar disinfection process;

137 [(10)] (9) "Principal display panel" means the portion of a label on
138 any container or package which is most likely to be displayed,
139 presented or examined under normal and customary conditions of
140 display and purchase of bottled water;

141 [(11)] (10) "Public water supply" means any individual, partnership,

142 association, corporation, municipality or other entity, or the lessee
143 thereof, which owns, maintains, operates, manages, controls or
144 employs any pond, lake, reservoir, well, stream or distributing plant or
145 system for the purpose of supplying water by service connections or
146 pipe distribution systems to two or more hotels, motels,
147 boardinghouses, apartments, stores, office buildings, institutions,
148 mechanical or manufacturing establishments or other places of
149 business or industry to which water is supplied by a water company or
150 to twenty-five or more persons on a regular basis;

151 [(12)] (11) "Purified water" means bottled water which is produced
152 by distillation, deionization, reverse osmosis or any other suitable
153 process and which meets standards established for purified water in
154 the twentieth edition of the United States Pharmacopoeia;

155 [(13)] (12) "Spring water" means natural water obtained from an
156 underground formation from which water flows naturally to the
157 surface of the earth;

158 (13) "Supply source" means the source of any bottled water. A
159 supply source includes, but is not limited to, a spring, artesian well,
160 drilled well or public water supply;

161 (14) "Well water" means natural water obtained from a hole bored,
162 drilled or otherwise constructed in the ground, which taps the water of
163 an aquifer.

164 Sec. 5. Section 21a-150a of the general statutes is repealed and the
165 following is substituted in lieu thereof (*Effective October 1, 2011*):

166 [(a)] (a) Water bottled for sale or distribution shall be obtained from a
167 source approved by the Department of Public Health.]

168 [(b)] (a) No bottled water shall be sold or distributed which does not
169 comply with regulations adopted by the Department of Public Health
170 pursuant to section 19a-36 establishing maximum contaminant levels,
171 action levels and monitoring procedures for public drinking water,
172 except that mineral water may be sold or distributed which contains

173 total dissolved solids in excess of the standard set forth in any such
174 regulations.

175 [(c)] (b) A bottler shall be subject to the provisions of sections 21a-
176 135 to 21a-145, inclusive, as amended by this act.

177 Sec. 6. Section 21a-150b of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective October 1, 2011*):

179 (a) Qualified employees of a bottler shall collect samples of water
180 from each [approved] supply source used by such bottler not less than
181 once annually to test for contaminants for which maximum levels have
182 been established in accordance with regulations adopted pursuant to
183 section 19a-36, concerning public drinking water, and regulations
184 adopted pursuant to sections 21a-150 to 21a-150j, inclusive, as
185 amended by this act, and not less than once every three years to test for
186 contaminants for which monitoring is required pursuant to sections
187 21a-150 to 21a-150j, inclusive, as amended by this act, but for which no
188 maximum level has been established. Qualified employees of a
189 laboratory approved by the Department of Public Health shall analyze
190 such samples to determine whether such source complies with the
191 provisions of sections 21a-150 to 21a-150j, inclusive, as amended by
192 this act, any regulation adopted pursuant to said sections and any
193 maximum contaminant level set forth in regulations adopted pursuant
194 to said section 19a-36, concerning public drinking water.
195 Microbiological analysis shall be conducted not less than once each
196 calendar quarter if the supply source of such water is other than a
197 public water supply and shall be in addition to any sampling and
198 analysis conducted by any government agency or laboratory.

199 (b) Qualified employees of a bottler shall collect samples of water
200 from any supply source used by such bottler when such bottler knows
201 or has reason to believe that water obtained from such source contains
202 an unregulated contaminant in an amount which may adversely affect
203 the health or welfare of the public. Qualified employees of a laboratory
204 approved by the Department of Public Health shall analyze such
205 samples periodically to determine whether water obtained from any

206 such source is safe for public consumption or use.

207 Sec. 7. Section 21a-150d of the general statutes is repealed and the
208 following is substituted in lieu thereof (*Effective October 1, 2011*):

209 (a) A laboratory which analyzes any water sample in accordance
210 with any provision of sections 21a-150 to 21a-150j, inclusive, as
211 amended by this act, shall report the results of such analysis to the
212 bottler of such water.

213 (b) Such results shall be available for inspection by the Department
214 of Consumer Protection, [and the Department of Public Health,] upon
215 request.

216 (c) A bottler shall report any result which indicates that a water
217 sample contains contaminants in an amount exceeding any standard
218 set forth in any regulation adopted pursuant to sections 21a-150 to 21a-
219 150j, inclusive, as amended by this act, or in any regulation adopted
220 pursuant to section 19a-36 concerning public drinking water, to the
221 Department of Consumer Protection, [and the Department of Public
222 Health, within] not later than twenty-four hours [of] after learning of
223 such result.

224 (d) All records of any sampling or analysis conducted in accordance
225 with the provisions of sections 21a-150 to 21a-150j, inclusive, as
226 amended by this act, shall be maintained on the premises of the bottler
227 for not less than five years.

228 Sec. 8. Subsection (l) of section 21a-150h of the general statutes is
229 repealed and the following is substituted in lieu thereof (*Effective*
230 *October 1, 2011*):

231 (l) Except as provided in subsection (k) of this section, a label which
232 identifies any bottled water which is not spring water, as defined in
233 [subdivision (10) of] section 21a-150, as amended by this act, shall not
234 bear the words "spring", "spring fresh", "spring brand", "spring type" or
235 any term of similar import.

236 Sec. 9. Section 16-262m of the general statutes is repealed and the
237 following is substituted in lieu thereof (*Effective October 1, 2011*):

238 (a) As used in this section and section 8-25a, "water company"
239 means a corporation, company, association, joint stock association,
240 partnership, municipality, state agency, other entity or person, or
241 lessee thereof, owning, leasing, maintaining, operating, managing or
242 controlling any pond, lake, reservoir, stream, well or distributing plant
243 or system employed for the purpose of supplying water to fifteen or
244 more service connections or twenty-five or more persons for at least
245 sixty days in any one year.

246 (b) No water company may begin the construction of a water supply
247 system for the purpose of supplying water to fifteen or more service
248 connections or twenty-five or more persons for at least sixty days in
249 any one year, and no person or entity, except a water company
250 supplying more than two hundred fifty service connections or one
251 thousand persons, may begin expansion of such a water supply
252 system, without having first obtained a certificate of public
253 convenience and necessity.

254 (c) For systems serving twenty-five or more residents that are not
255 the subject of proceedings under subsection (c) of section 16-262n or
256 section 16-262o, an application for a certificate of public convenience
257 and necessity shall be on a form prescribed by the Department of
258 Public Utility Control, in consultation with the Department of Public
259 Health, and accompanied by a copy of the applicant's construction or
260 expansion plans, a fee of one hundred dollars and when an exclusive
261 service area provider has been determined pursuant to section 25-33g,
262 a copy of a signed ownership agreement between the applicant and
263 provider for the exclusive service area, as determined pursuant to
264 section 25-33g, detailing those terms and conditions under which the
265 system will be constructed or expanded and for which the provider
266 will assume service and ownership responsibilities. When an exclusive
267 service area provider has been determined pursuant to section 25-33g,
268 the application shall also be accompanied by a written confirmation

269 from the exclusive service area provider, as the person that will own
270 the water supply system, that such exclusive service area provider has
271 received the application and is prepared to assume responsibility for
272 the water supply system subject to the terms and conditions of the
273 ownership agreement. Written confirmation from the exclusive service
274 area provider shall be on a form prescribed by said departments. Said
275 departments shall issue a certificate to an applicant upon determining,
276 to their satisfaction, that (1) no interconnection is feasible with a water
277 system owned by, or made available through arrangement with, the
278 provider for the exclusive service area, as determined pursuant to
279 section 25-33g or with another existing water system where no
280 exclusive service area has been assigned, (2) the applicant will
281 complete the construction or expansion in accordance with
282 engineering standards established by regulation by the Department of
283 Public Utility Control for water supply systems, (3) ownership of the
284 system will be assigned to the provider for the exclusive service area,
285 when an exclusive service area provider has been determined
286 pursuant to section 25-33g, (4) the proposed construction or expansion
287 will not result in a duplication of water service in the applicable
288 service area, (5) the applicant meets all federal and state standards for
289 water supply systems, [and] (6) the person that will own the water
290 supply system has the financial, managerial and technical resources to
291 (A) operate the proposed water supply system in a reliable and
292 efficient manner, and (B) provide continuous adequate service to
293 consumers served by the water supply system, (7) the proposed water
294 supply system will not adversely affect the adequacy of nearby water
295 supply systems, and (8) any existing or potential threat of pollution
296 that the Department of Public Health deems to be adverse to public
297 health will not affect any new source of water supply. Any
298 construction or expansion with respect to which a certificate is
299 required shall thereafter be built, maintained and operated in
300 conformity with the certificate and any terms, limitations or conditions
301 contained therein.

302 (d) The Department of Public Utility Control and the Department of
303 Public Health shall each adopt regulations, in accordance with the

304 provisions of chapter 54, to carry out the purposes of subsections (a) to
305 (c), inclusive, of this section.

306 (e) (1) For systems serving twenty-five or more persons, but not
307 twenty-five or more residents, at least sixty days in any one year an
308 application for a certificate of public convenience and necessity shall
309 be on a form prescribed by the Department of Public Health and
310 accompanied by a copy of the construction or expansion plans. The
311 Department of Public Health shall issue a certificate to an applicant
312 upon determining, to its satisfaction, that (A) no interconnection is
313 feasible with a water system owned by, or made available through
314 arrangement with, the provider for the exclusive service area, as
315 determined pursuant to section 25-33g or with another existing water
316 system where no existing exclusive service area has been assigned, (B)
317 the applicant will complete the construction or expansion in
318 accordance with engineering standards established by regulation for
319 water supply systems, (C) ownership of the system will be assigned to
320 the provider for the exclusive service area, as determined pursuant to
321 section 25-33g, if agreeable to the exclusive service area provider and
322 the Department of Public Health, or may remain with the applicant, if
323 agreeable to the Department of Public Health, until such time as the
324 water system for the exclusive service area, as determined by section
325 25-33g, has made an extension of the water main, after which the
326 applicant shall obtain service from the provider for the exclusive
327 service area, (D) the proposed construction or expansion will not result
328 in a duplication of water service in the applicable service area, (E) the
329 applicant meets all federal and state standards for water supply
330 systems, [and] (F) the person that will own the water supply system
331 has the financial, managerial and technical resources to (i) operate the
332 proposed water supply system in a reliable and efficient manner, and
333 (ii) provide continuous adequate service to consumers served by the
334 water supply system, (G) the proposed water supply system will not
335 adversely affect the adequacy of nearby water supply systems, and (H)
336 any existing or potential threat of pollution that the Department of
337 Public Health deems to be adverse to public health will not affect any
338 new source of water supply. Any construction or expansion with

339 respect to which a certificate is required shall thereafter be built,
340 maintained and operated in conformity with the certificate and any
341 terms, limitation or conditions contained therein. Properties held by
342 the Department of Environmental Protection and used for or in
343 support of fish culture, natural resource conservation or outdoor
344 recreational purposes shall be exempt from the requirements of
345 subdivisions (1), (3) and (4) of subsection (c) of this section and
346 subparagraphs (A), (C) and (D) of subdivision (1) of subsection (e) of
347 this section.

348 (2) The Department of Public Health shall adopt regulations, in
349 accordance with the provisions of chapter 54, to carry out the purposes
350 of this subsection. Such regulations may include measures that
351 encourage water conservation and proper maintenance.

352 Sec. 10. Section 25-33k of the general statutes is repealed and the
353 following is substituted in lieu thereof (*Effective October 1, 2011*):

354 (a) For purposes of this section, "safe yield" means the maximum
355 dependable quantity of water per unit of time that may flow or be
356 pumped continuously from a source of supply during a critical dry
357 period without consideration of available water limitations.

358 (b) No source of water supply shall be abandoned by a water
359 company or other entity without a permit from the Commissioner of
360 Public Health. A water company or other entity shall apply for such
361 permit in the manner prescribed by the commissioner. Not later than
362 thirty days before filing an application for such permit, the applicant
363 shall notify the chief elected official of any municipality and any local
364 health department or district in which such source of supply is located.
365 Not later than sixty days after receipt of such notification, the
366 municipality or municipalities and local health departments or
367 districts receiving such notice, and any water company as defined in
368 section 25-32a, may submit comments on such application to the
369 commissioner. The commissioner shall take such comments into
370 consideration when reviewing the application.

371 (c) (1) In [the commissioner's decision] determining whether to
372 approve an application, the commissioner shall (A) consider the water
373 supply needs of the water company, the state and any comments
374 submitted pursuant to subsection (b) of this section, and [shall] (B)
375 consult with the Commissioner of Environmental Protection, the
376 Secretary of the Office of Policy and Management and the Department
377 of Public Utility Control. The Commissioner of Public Health shall not
378 be required to make a consultation pursuant to subparagraph (B) of
379 this subdivision if the commissioner determines the source of water
380 supply to be abandoned is a groundwater source with a safe yield of
381 less than ten gallons per minute and is of poor water quality.

382 (2) The Commissioner of Public Health shall grant a permit upon a
383 finding that any groundwater source with a safe yield of less than 0.75
384 millions of gallons per day, any reservoir with a safe yield of less than
385 0.75 millions of gallons per day, any reservoir system with a safe yield
386 of less than 0.75 millions of gallons per day, or any individual source
387 within a reservoir system when such system has a safe yield of less
388 than 0.75 millions of gallons per day will not be needed by such water
389 company for present or future water supply and, in the case of a water
390 company required to file a water supply plan under section 25-32d,
391 that such abandonment is consistent with a water supply plan filed
392 and approved pursuant to said section. No permit shall be granted if
393 the commissioner determines that the source would be necessary for
394 water supply by the company owning such source in an emergency or
395 the proposed abandonment would impair the ability of such company
396 to provide a pure, adequate and reliable water supply for present and
397 projected future customers. As used in this section, a future source of
398 water supply shall be considered to be any source of water supply
399 necessary to serve areas reasonably expected to require service by the
400 water company owning such source for a period of not more than fifty
401 years after the date of the application for a permit under this section.

402 (3) The Commissioner of Public Health shall grant a permit upon a
403 finding that any groundwater source with a safe yield of more than
404 0.75 millions of gallons per day, any reservoir with a safe yield of more

405 than 0.75 millions of gallons per day, any reservoir system with a safe
406 yield of more than 0.75 millions of gallons per day, or any individual
407 source within a reservoir system when such system has a safe yield of
408 more than 0.75 millions of gallons per day is of a size or condition that
409 makes it unsuitable for present or future use as a drinking water
410 supply by the water company, other entity or the state. In making a
411 decision, the commissioner shall consider the general utility of the
412 source and the viability for use to meet water supply needs. The
413 commissioner shall consider any public water supply plans filed and
414 approved pursuant to sections 25-32d and 25-33h, and any other water
415 system plan approved by the commissioner, and the efficient and
416 effective development of public water supply in the state. In assessing
417 the general utility of the source, the commissioner shall consider
418 factors including, but not limited to, (A) the safe yield of the source, (B)
419 the location of the source relative to other public water supply
420 systems, (C) the water quality of the source and the potential for
421 treatment, (D) water quality compatibility between systems and
422 interconnections, (E) extent of water company-owned lands for source
423 protection of the supply, (F) types of land uses and land use controls in
424 the aquifer protection area or watershed and their potential impact on
425 water quality of the source, and (G) physical limitations to water
426 service, system hydraulics and topography.

427 Sec. 11. Subsection (n) of section 25-32 of the general statutes is
428 repealed and the following is substituted in lieu thereof (*Effective*
429 *October 1, 2011*):

430 (n) (1) On and after the effective date of regulations adopted under
431 this subsection, no person may operate any water treatment plant₂ [or]
432 water distribution system or small water system that treats or supplies
433 water used or intended for use by the public, test any backflow
434 prevention device, or perform a cross connection survey without a
435 certificate issued by the commissioner under this subsection. The
436 commissioner shall adopt regulations, in accordance with chapter 54,
437 to provide: (A) Standards for the operation of such water treatment
438 plants₂ [and] water distribution systems and small water systems; (B)

standards and procedures for the issuance of certificates to operators of such water treatment plants, [and] water distribution systems and small water systems; (C) procedures for the renewal of such certificates every three years; (D) standards for training required for the issuance or renewal of a certificate; and (E) standards and procedures for the issuance and renewal of certificates to persons who test backflow prevention devices or perform cross connection surveys. Such regulations shall be consistent with applicable federal law and guidelines for operator certification programs promulgated by the United States Environmental Protection Agency. [, and shall be adopted and filed with the Secretary of the State pursuant to section 4-172 not later than February 1, 2001] For purposes of this subsection, "small water system" means a public water system, as defined in section 25-33d, that serves less than one thousand persons and has no treatment or has only treatment that does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator.

(2) The commissioner may take any disciplinary action set forth in section 19a-17, except for the assessment of a civil penalty under subdivision (6) of subsection (a) of section 19a-17, against an operator, a person who tests backflow prevention devices or a person who performs cross connection surveys holding a certificate issued under this subsection for any of the following reasons: (A) Fraud or material deception in procuring a certificate, the renewal of a certificate or the reinstatement of a certificate; (B) fraud or material deception in the performance of the certified operator's professional activities; (C) incompetent, negligent or illegal performance of the certified operator's professional activities; (D) conviction of the certified operator for a felony; or (E) failure of the certified operator to complete the training required under subdivision (1) of this subsection.

(3) The commissioner may issue an initial certificate to perform a function set forth in subdivision (1) of this subsection upon receipt of a completed application, in a form prescribed by the commissioner, together with an application fee as follows: (A) For a water treatment

473 plant, water distribution system or small water system operator
 474 certificate, two hundred twenty-four dollars; (B) for a backflow
 475 prevention device tester certificate, one hundred fifty-four dollars; and
 476 (C) for a cross-connection survey inspector certificate, one hundred
 477 fifty-four dollars. A certificate issued pursuant to this subdivision shall
 478 expire three years from the date of issuance unless renewed by the
 479 certificate holder prior to such expiration date. The commissioner may
 480 renew a certificate for an additional three years upon receipt of a
 481 completed renewal application, in a form prescribed by the
 482 commissioner, together with a renewal application fee as follows: (i)
 483 For a water treatment plant, water distribution system or small water
 484 system operator certificate, ninety-eight dollars; (ii) for a backflow
 485 prevention device tester certificate, sixty-nine dollars; and (iii) for a
 486 cross-connection survey inspector certificate, sixty-nine dollars.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	16a-27
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2011</i>	21a-138
Sec. 4	<i>October 1, 2011</i>	21a-150
Sec. 5	<i>October 1, 2011</i>	21a-150a
Sec. 6	<i>October 1, 2011</i>	21a-150b
Sec. 7	<i>October 1, 2011</i>	21a-150d
Sec. 8	<i>October 1, 2011</i>	21a-150h(l)
Sec. 9	<i>October 1, 2011</i>	16-262m
Sec. 10	<i>October 1, 2011</i>	25-33k
Sec. 11	<i>October 1, 2011</i>	25-32(n)

Statement of Legislative Commissioners:

In section 4(13), a period was substituted for the comma after "bottled water" and the phrase "including, but not limited to" was changed to "A supply source includes, but is not limited to" for clarity. In section 5(b), ", as amended by this act" was added for accuracy. In section 6(a), the phrase "once annually for contaminants" was changed to "once annually to test for contaminants" for clarity and the phrase "every three years for contaminants" was changed to "every three years to test for contaminants" for clarity. In sections 9(c)(8) and 9(e)(1)(H), "an

existing or potential threat" was changed to "any existing or potential threat" for accuracy. In section 10(c)(1), the phrase "if the source of water supply to be abandoned" was changed to "if the commissioner determines the source of water supply to be abandoned" for clarity. In section 11(n)(3), the phrase "The commissioner may issue a certificate" was changed to "The commissioner may issue an initial certificate" for clarity.

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Health, Dept.	GF - Cost	65,704	126,908
Consumer Protection, Dept.	GF - Cost	26,272	48,544
State Comptroller - Fringe Benefits ¹	GF - Cost	17,631	35,262
Public Health, Dept.	FF - Precludes Revenue Loss	up to 1.6 million	up to 1.6 million
Public Health, Dept.	GF - Revenue Gain	129,770	129,770

Note: GF=General Fund; FF=Federal Funds

Municipal Impact: None

Explanation

The bill results in fiscal impacts as described below.

DEPARTMENT OF PUBLIC HEALTH

The bill makes changes to statutes concerning the Department of Public Health's (DPH) certified water treatment, water distribution, and water system operator program. Specifically, it establishes the following fees:

- An initial water treatment, water distribution system, or small water system operator certificates fee of \$224 each,
- A renewal water treatment, water distribution system, or small water system operator certificates fee of \$98 each,

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state

- An initial backflow prevention device tester and cross-connection survey inspector certificates fee of \$154, and
- A renewal backflow prevention device tester and cross-connection survey inspector certificates fee of \$98.

These fees will generate annual General Fund revenue of \$129,770. This assumes an annual average of:

- 280 initial water treatment, water distribution system, or small water system operator certificates (resulting in \$62,720 in revenue) and 382 renewals (resulting in \$37,436 in revenue), for a total of \$100,156.
- 100 initial backflow prevention device tester and cross-connection survey inspector certificates (resulting in \$15,400 in revenue) and 206 renewals (resulting in \$14,214 in revenue), for a total of \$29,614.

It should be noted that the certified water treatment, water distribution, and water system operator program, is currently administered by two positions currently under DPH that are supported by a federal Environmental Protection Agency (EPA) Expense Reimbursement Grant. This grant is projected to end in March 2012. This program is required for Connecticut to meet the EPA's Final Guidelines for the Certification and Recertification of Operators of Community and Non-Transient Non-Community Public Water Systems. If Connecticut does not meet these guidelines, EPA could withhold 20% of the Drinking Water State Revolving Fund grant, which would result in a potential loss of approximately \$1.6 million in federal revenue annually.

Costs associated with these positions in FY 12 include a half-year Sanitary Engineer III salary of \$38,650, a half-year Office Assistant salary of \$24,554, and other related expenditures of 2,500, for a total to DPH of \$65,704. Costs in FY 13 include full-time salaries of \$126,408 and other related costs of \$500, for a total cost to DPH of \$126,908.

pension funds.

Fringe benefit costs would be \$15,017 in FY 12 and \$30,035 in FY 13.

DEPARTMENT OF CONSUMER PROTECTION

The bill results in a cost to the Department of Consumer Protection (DCP) of \$28,886 in FY 12 and \$53,771 in FY 13 to support a halftime Sanitary Engineer I to sample and test bottled water. Costs in FY 12 include a half-year salary of \$11,000, fringe benefits of \$2,614, other related expenditures, including testing and analysis of \$13,272 and one-time start-up cost of \$2,000. Costs in FY 13 include a salary of \$22,000, fringe benefits of \$5,227 and other related costs of \$26,544.

The DCP currently has 361 active licenses issued to bottlers with approximately 35 of those bottlers located in the State of Connecticut. Source approvals will have to be done on at least eight of the 35 Connecticut licensees that are on springs and other source water supplies that DPH does not consider public sources at this time. One quarter of the remainder or approximately 90 of those currently licensed will also require source review as well.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of certificates issued and renewed.

OLR Bill Analysis**sSB 1203*****AN ACT CONCERNING WATER PROTECTION.*****SUMMARY:**

This bill makes several changes to the statutes relating to the Department of Public Health's (DPH) jurisdiction over, and duties concerning, public water sources. It:

1. requires the DPH commissioner to prepare, at least annually, a list of actual and potential water sources needing protection;
2. eliminates the requirement that DPH inspect and approve sources of water bottled for sale or distribution;
3. adds two conditions under which the Department of Public Utility Control (DPUC) and DPH must issue a certificate of public convenience and necessity for water companies constructing or expanding their systems;
4. requires a water company to notify the town's local health department instead of only the chief elected official when applying to DPH to abandon a public water source;
5. requires DPH to certify small water systems, in addition to water treatment plants and distribution systems, that (a) treat or supply water for public use, (b) test backflow prevention devices, or (c) perform cross-connection surveys; and
6. establishes fees for this certification.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2011 except for the provisions about

the water resources list, which take effect upon passage.

§§ 1 & 2 — WATER RESOURCES LIST; STATE PLAN OF CONSERVATION AND DEVELOPMENT

By October 31, 2011, the bill requires the DPH commissioner to consult with the Water Planning Council and prepare a list designating actual or potential water sources that need protection to ensure the highest quality water sources are available for human consumption. In preparing the list, the commissioner must consider the following plans:

1. the statewide long-range water resource plan;
2. water supply plans submitted to DPH by certain water companies;
3. coordinated water system plans biennially reported to DPH by each public water supply management area's water utility coordinating committee; and
4. any other plans or information she deems relevant.

The commissioner must update the list at least annually, but may do so as frequently as she deems necessary. The bill specifies that it does not limit the commissioner's authority to approve a water supply source not on the list.

The bill also requires the Office of Policy and Management (OPM) to consider (1) state water supply and resource policies and (2) the above water resources list when revising the five-year State Plan of Conservation and Development after December 1, 2011.

§§ 3-8 — BOTTLED WATER

The bill removes the requirement that DPH approve the source of water bottled for sale or distribution. It eliminates the:

1. requirement that DPH inspect and approve bottled water sources such as a spring, artesian well, drilled well, or public

water and

2. the consumer protection commissioner's ability to suspend or revoke the license of a water bottler who fails to use a DPH-approved source.

The law requires water bottlers, among other things, to collect annual samples of the sources of water sold in the state and have them tested by a DPH-approved laboratory to determine if they comply with microbial standards established by DPH for public drinking water. Testing must be done at least every three years for contaminants for which a maximum level is not established. Analysis must be done quarterly if the supply source is not a public water supply.

The bill requires water bottlers to (1) make these laboratory results available only to DCP instead of both DCP and DPH and (2) report only to DCP instead of both DCP and DPH any laboratory results indicating contamination in amounts exceeding state regulations within 24 hours.

§ 9 — CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

The law requires water companies to get a certificate of public convenience and necessity from DPUC and DPH before they begin the construction and expansion of their systems. The bill adds two conditions under which DPUC and DPH must issue a certificate: (1) the proposed water supply system will not adversely affect the adequacy of nearby water systems and (2) any existing or potential pollution threat DPH deems to be adverse to public health will not affect any new water supply source.

The law requires the departments to issue a certificate if they find that:

1. no interconnection is feasible with a water system owned by, or made available through an arrangement with, the provider of the exclusive service area (ESA) or with another existing water system where no ESA has been assigned;

2. the applicant plans to build or expand according to DPUC-established engineering standards;
3. ownership of the system will be assigned to the ESA provider;
4. the system's owner has the financial, technical, and managerial resources to operate the proposed water supply system reliably and efficiently enough to provide continuous service;
5. the proposed construction or expansion would not result in a duplication of service in the applicable service area; and
6. the system meets all federal and state standards for water supply systems.

§ 10 — ABANDONING WATER SOURCES

By law, any entity seeking to abandon a water source must apply to the DPH commissioner for an abandonment permit. The bill requires the entity, 30 days before filing an application, to notify the local health department or district in each town in which the water supply source is located. The law already (1) requires the entity to notify each town's chief elected official and (2) permits towns and other water companies to submit comments to the commissioner within 60 days of receiving notice from the company. The bill extends this comment opportunity to local health departments or districts. The commissioner must consider these comments in deciding whether to grant a permit.

In making her decision about abandoning a water supply source, current law requires the commissioner to consider the (1) water company's and the state's water supply needs and (2) any comments she received about the application. She must also consult with the environmental protection commissioner, the OPM secretary, and the DPUC.

The bill specifies that commissioner need not consult with these agencies if she determines the proposed abandoned water supply source is (1) a groundwater source with a safe yield of less than 10

gallons per minute and (2) of poor water quality.

The law defines “safe yield” as the maximum dependable quantity of water per unit of time that may flow or be continuously pumped from a supply source during a critical dry period without consideration of available water limitations.

§ 11 — SMALL WATER SYSTEMS CERTIFICATION

Certification Required

The bill requires DPH to certify small water systems that (1) treat or supply water for public use, (2) test backflow prevention devices, or (3) perform cross-connection surveys. DPH must already do this for water treatment plants and water distribution systems that perform these functions. It requires DPH to adopt regulations on standards and procedures for issuing and renewing certificates for small water systems as it must already do for water treatment plants and water distribution systems.

Fees

The bill authorizes the commissioner to issue an initial three-year certificate for these activities and establishes certification fees. An entity must submit a completed application in a form the commissioner prescribes and an application fee as follows:

1. \$224 for a water treatment plant, water distribution system, or small water operator certificate and
2. \$154 for a backflow prevention device tester certificate or cross-connection survey inspector certificate.

Certificates may be renewed for an additional three years if the certificate holder completes a renewal application and pays the following renewal fees:

1. \$98 for a water treatment plant, water distribution system, or small water operator certificate; and
2. \$69 for a backflow prevention device tester certificate or cross-

connection survey inspector certificate.

Under the bill, a “small water system” serves fewer than 1,000 people and has either (1) no treatment or (2) treatment that does not require any chemical treatment, process adjustment, backwashing, or media regeneration by an operator.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 28 Nay 0 (04/01/2011)